

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 1302 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?  
1 to 5 No.
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YASHAVNTLAL M SHAH

Versus

MOHAMAD S PALIWALA

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Appearance:

R.RASHMI M.CHHAYA FOR MR ND NANAVATI for the petitioners .

MR.S.A.PANYDA,ADDL. PUBLIC PROSECUTOR for Respondents No. 2 and 3.

MR.M.H.SONI for respondent No.1.

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 22/10/96

ORAL JUDGEMENT

The petitioners, by way of this petition under Articles 226 and 227 of the Constitution of India, have challenged the proceedings initiated by the Executive

Magistrate, Metropolitan Area, Ahmedabad city and registered as Chapter Case No. 2397 of 1991 under section 107, 151 and 116 (3) of the Criminal Procedure Code, whereby the learned Magistrate issued show cause notice calling upon the petitioners to show cause as to why for a period of one year security of Rs.1000/- should not be taken.

This Court while issuing Rule on 23rd September, 1991 had stayed the further proceedings of the case against the petitioners.

Mr. R.M.Chhaya for Mr. N.D.Nanavati, learned Advocate appearing for the petitioners has stated that after the order passed by this Court no untoward incident has taken place between the petitioners and respondent No.1. In any case, in the submission of Mr. Chhaya, out of seven petitioners, four are female members while petitioners Nos.1 and 6 are aged persons of 69 and 68 years, respectively and, therefore, no useful purpose will be served in asking them to remain present before the learned Magistrate, especially when the proceedings have been initiated by respondent No.1 against them with a view to counterblast the proceedings initiated by the petitioners for eviction in the Small Causes Court under the provisions of the Bombay Rent Act.

Considering the facts and circumstances of the case, and particularly in view of the fact that much time has elapsed during which period no untoward incident has taken place, I am of the opinion that no useful purpose will be served in proceeding further with the Chapter Case No.2397/91. Under the circumstances, the learned Magistrate is directed to pass appropriate orders considering the facts and circumstances stated hereinabove without insisting for the presence of the petitioners before him. Rule is made absolute accordingly with no order as to costs. Ad-interim relief stands vacated.

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